United Nations A/HRC/WG.6/25/ATG/1

General Assembly

Distr.: General
19 February 2016

Original: English

**Human Rights Council**
**Working Group on the Universal Periodic Review**
**Twenty-fifth session**
2–13 May 2016

# National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*

## Antigua and Barbuda

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GE.16-02510(E)

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# I. Country background

## A. The Constitution

1. Antigua and Barbuda was a former colony of Great Britain and gained independence as a sovereign nation on the 1st November, 1981. The constitution of Antigua and Barbuda is supreme laws, the provisions of which are entrenched and can only be amended if it is supported by the votes of not less than two thirds of all members of the House. Bills to amend specific sections and schedule of the constitution can only be amended by way of referendum of not less than two thirds of all votes solidly cast on that referendum.

2. The preamble of the constitution of Antigua and Barbuda contains the human rights provision outlined in the Universal Declaration of Human Rights. Any law which is inconsistent with the constitution is null and void. The constitution preserves the dignity and worth of the human being, the entitlement of all persons to the fundamental rights and freedoms of the individual, the position of the family in a society of free men and women and free institutions.

## B. The executive

3. The Antigua and Barbuda is a Parliamentary democracy with the tradition of a high level of participatory politics inherited from the British Colonial experience and enhanced by indigenous or cultural democratic traditions, aspirations and culture.

4. Parliament is composed of two chambers, the Lower House, the House of Representatives and the Upper House, The Senate. The Lower House consists of 17 elected representatives, the Attorney-General and the Speaker. The Senate is made up of 17 members who are appointed by the Governor-General on advice. The Prime Minister makes a recommendation for ten (10) appointments, four (4) appointments are made on the advice of the Leader of the Opposition, one (1) appointment is made on the advice of the Barbuda Council, one (1) inhabitant of Barbuda is appointed on the advice of the Prime Minister and one (1) appointment is made at the discretion of the Governor-General. The party or coalition of parties with the greatest number of elected representatives forms the Government headed by the leader as Prime Minister. The Prime Minister appoints his members to his Cabinet and the Cabinet performs the executive functions. The Cabinet is constitutionally answerable to Parliament. The constitution establishes the procedure by which Parliament must carry out its function of making laws for the peace, order and good governance of Antigua and Barbuda.

## C. The judiciary

5. The provisions in the Supreme Court Order governing the appointment, tenure and removal of members of the judiciary operate to protect the independence and impartiality of the Judges of the Eastern Caribbean Supreme Court in its original jurisdiction and appellate jurisdiction. The judges of the Supreme Court comprise the High Court and the Court of Appeal and are appointed by the Judicial and Legal Services Commission of the Organisation of Eastern Caribbean States.

6. The citizens of the country can petition the court in respect of any perceived violation of civil liberties and rights granted by the constitution. Any interested party can seek challenging the validity of legislation or legislative provisions for incompatibility with the constitution. Citizens can go to court for judicial review of any action of the executive which they feel has infringed or infringes on their human rights.

7. Residents and citizens of Antigua and Barbuda can access the Magistrates Court for redress in a variety of matters to include matters, financial limit, domestic violence, maintenance and access to children, liquor licensing etc. The vast majority if all criminal case commence in the Magistrates Court. Magistrates are trained lawyers appointed by the Governor-General acting on the advice of the Judicial and Legal Services Commission. Magistrates now have security of tenure and are now governed under the auspices of the Chief Justice who is head of the Judicial and Legal Services Commission and are no longer under the authority of Attorney-General.

8. The Caribbean Court of Justice in its original jurisdiction is available to all Antiguans and Barbuda's who seek redress in matters requiring interpretation of the Treaty of Chaguaramas. The court of final appeal is the Judicial Committee of the Privy Council of the United Kingdom, and access to the court is governed by the constitution. A referendum will be required for Antigua and Barbuda to adopt the Caribbean Court of Justice its final appellate court.

# II. Promotion and protection of human rights in Antigua and Barbuda

## A. International human rights instruments

9. Antigua and Barbuda has a dualist legal system, therefore the international human rights instruments to which Antigua and Barbuda is a party cannot be the basis for legal proceedings in the domestic courts. Parliament must first enact legislation for the purpose of giving effect to the international instruments to which the country is a party.

10. The major human rights instruments which Antigua and Barbuda is a party to are: the International Convention of the Elimination of all forms of Racial Discrimination, Convention against Torture and other cruel forms of treatment or punishment, Convention on the Rights of the Child, United Nation Convention against Transnational Organized Crime, International Convention for the Suppression of the Financing of Terrorism, and the United Nations Convention on the Rights of Persons with Disability (UNCRPD).

## B. Trafficking in person

11. The Trafficking in Person (Prevention) (Amendment) Act 2015 amends and strengthens the Trafficking in Persons (Prevention) Act 2010. The 2015 Act increased fines and the length of sentences, and gives the Director of Public Prosecutions the power to determine whether or not a hybrid offence shall be tried summarily or on indictment. The Act makes provision for the appointment of a Trafficking in Persons Prevention Committee with extensive powers to formulate policies and programmes designed to implement the objects of the Act.

## C. Migrant smuggling

12. The Migrant Smuggling (Prevention) (Amendment) Act 2015 strengthened and amended the 2010 Act. The penalties in the 2015 Act are increased and continue to reflect the seriousness of the offence and the international ramifications. The Migrant Smuggling Prevention Act 2010, needed to be strengthen.

# III. Achievement, best practices, challenges and complaints

## A. Antigua and Barbuda Bureau of Standards

13. The Antigua and Barbuda Bureau of Standards (ABBS) is a statutory body established in 1989 to determine and apply the standards necessary for protecting the rights of consumers of goods purchased or manufactured in Antigua and Barbuda. ABBS is a member of the CARICOM Regional Organisation for Standards and Quality (CROSQ) which is the regional body which promotes the development and harmonization of standards and improved quality in the production of goods and services in the CARICOM community thereby facilitating consumer and environmental protection. ABBS is obliged to address issues relating to the quality and standard of manufacture and sale of goods, the provision of services and commercial processes and practices. ABBS, addresses product related complaints, it also tests products to ensure they meet the required quality standards. ABBS also discriminates information to the public regarding the rights of consumers through a variety of media platforms and training workshops.

## B. Criminal libel

14. The Defamation Act 2015 decriminalizes criminal libel which was of great concern to the media fraternity and also resolved existing ambiguities in the common law. The act also set out parameters for the defence of qualified privilege i.e. fair and accurate reports of public proceedings such as statements made in Parliament, international conferences, international courts or international press statements.

## C. Immigration

15. The Immigration and Passport (Amendment) Act 2015 granted amnesty to persons who were illegally resident in Antigua and Barbuda. Illegal persons can make an application to the Minister, on payment of any arrears owed to the Government and on payment of the prescribed fee for such application, be granted amnesty and an extension of time to remain in Antigua and Barbuda. In considering the application for the grant of amnesty, the Cabinet shall take into consideration information that the applicant has no criminal conviction, if applicable has family ties in Antigua and Barbuda, and any other information deemed relevant to the application.

## D. The Ombudsman

16. The Ombudsman is an independent constitutional person who is mandated to investigate complaints from persons aggrieved by the actions of Government officials and statutory authorities. The Ombudsman has no coercive powers but seeks to resolve problems through a process of investigation and reconciliation. The Ombudsman presents a report to Parliament every year outlining the cases dealt with throughout the year and the outcomes.

## E. The Information Commissioner

17. The office of the Information Commissioner was established by the Freedom of Information Act 2004. Citizens can seek the assistance of the Information Commissioner as a last resort to obtain information from a Government department when they have been

unsuccessful in their attempts to get the information. Government departments are to give the Information Commissioner any information requested, provided that the information is not in a category exempted by the Act. Personal information, commercial and confidential, health safety, defence and security, public economic interest, legal privilege are amongst the exempted provisions, their non disclosure is limited to situations where it is likely to cause serious prejudice.

## F. Her Majesty's Prison

18. The prison was designed to hold approximately 150 prisoners. The prison is overcrowded, the prison population currently stands at about 386 prisoners of which 18 are female. The prison population includes convicted person and those awaiting trial including juveniles who have committed serious crimes. The passage of the Child Justice Bill (which is discussed later) will change this situation as the Government is required to place juveniles in secure accommodation instead of prison.

19. The Government is looking into the idea of electronic monitoring persons convicted of smaller and minor offences, as a method of reducing the prison population as it is felt that the technology can be used to introduce house arrest.

20. There are several rehabilitative programmes which are in place to help prisoners including prison ministries which offer counseling, spiritual guidance and support for offenders. The Directorate of Gender Affairs offers lifestyle skills and skills that qualify them for employment on their release. The Environment Division has a programme, for convicted prisoners whereby they are put on a work programme to help them attain work skills in readiness for when they leave prison. The prisoners are selected by the Prison Superintendent.

## G. Persons with disabilities

21. The Government of Antigua and Barbuda has recently become the 161 member of the United Nations to have ratified and handed in the instruments to convention to the United Nations offices in New York. The Government will be drafting its policy in consultation with the relevant stakeholders in preparation for national legislation.

22. The Antigua and Barbuda Association for Persons with Disabilities (ABAPD) is a vibrant NGO which campaigns to end stigmatization and discrimination against persons with disabilities.

23. The Government policy for the education of children with disability is grounded in the practice of "inclusive education". Children with visual disability are main-streamed from Preschool, while children who are deaf and those with intellectual disability are served through special programs with a goal towards main streaming. ABAPD and persons with disabilities receives support and assistance from several Government departments and divisions namely, the Ministry of Health, Social Transformation and Department of National Vocational and Rehabilitation Centre for Disabilities gives help to eligible disabled persons and young adults who are disabled can access vocational training conducted by the centre for disabilities.

24. The Ministry of Social Transformation and the Ministry of Health caters for the special needs of disabled persons by providing practical assistance for the acquisition of assistive devices and medical treatment. Recently the Government sourced four buses to begin a Para-transit service to address the mobility and transportation need of persons with disability.

## H. The lesbian, bisexual, gay, transgendered community (LBGT)

25. Persons from the LBGT are generally not discriminated against in Antigua and Barbuda and there are several well known personalities from the LBGT community who live freely and in peace like any citizen. Buggery between two consenting adults is illegal under the Provisions of the Sexual Offence Act 1993; consenting adults are not prosecuted however if the act is committed against juveniles or without consent it will be prosecuted.

## I. Rights of children

26. The Education Act (Cap 145) provides that children are required to attend school from age 5 of 16. The Government provides free education; there are many primary and secondary school provided by the State. Vocational and technical training is also provided by the Government for secondary school children who wish to acquire practical skills.

27. There are several private institutions which provide education for a fee, whilst those schools are not under the direct control of the Ministry of Education, the Ministry of Education does have a supervisory role over private schools and can close them if they fall below the required standard.

28. There is an Early Childhood Development division in the Ministry of Education which is responsible for the daycare and pre-school facilities in the island, and has supervisory powers over these facilities.

29. A suite of laws relating to children and families was recently passed in the Houses of Parliament in November 2015, namely:

(a) The Child Justice Bill 2015;

(b) The Children (Care and Adoption) Bill 2015;

(c) The Status of Children Bill 2015;

(d) The Domestic Violence Bill 2015 (dealt with under Gender issues).

**The Child Justice Bill**

30. The objective of the Child Justice Bill 2015 is to prevent the criminalization of young people to and prevent them from being stigmatized at a young age because of the negative impact and consequences of being caught up in the criminal system. The Act establishes a criminal justice procedure for children to assist children to be dealt with outside of the traditional criminal justice process. There will be more emphasis on assisting and assessing the individual child with a view to helping the child keep out of the criminal justice system. The Act uses the principles of restorative justice when dealing with children, the aim is to prevent them from getting in further conflict with the law. The Act also institutes procedures for the diversion of cases away from formal court procedures to establish assessment of children with a view to making decisions that will deal with the issues presented by the child.

31. A Child Justice Board comprising a member of the clergy, social workers and a magistrate will be established, child would appear before the board, instead of going straight to court, for an assessment of the situation. The child will be given the opportunity to explain their side of the incident. A decision will be made by the board as to the way forward in the best interest of the child, taking all the circumstances into consideration.

32. The immediate safety and welfare and well being of the child and other children in the home of the child will be of paramount importance in deciding when the appropriate steps to assist and response to protect the child from risk of serious harm. Children can be

removed if it is deemed that they are in need of protection and their health or safety is in immediate jeopardy.

33. The Act abolishes corporal punishment as a sentencing option and provides for detention in secure accommodation for children as an alternative to placing them in prison.

**The Children (Care and Adoption) Act 2015**

34. The Act is designed to safeguard and promote the welfare of children and to provide that in all actions and decisions that concern a child, the child's safety, welfare and well being are of paramount consideration, and the same principle applies where a child is removed from this parent. Every action that is taken has to be in the best interest of the child and other children in the family where applicable.

**Adoption**

35. The Act seeks to reform the current law relating to adoption and provides for greater supervision of adoption procedures for the protection and welfare of the child to be adopted. There are also provisions for the protection of children to be adopted by persons living outside of Antigua and Barbuda The Act provides for the establishment of an Adoption Committee to give more Governmental control over the adoption process.

**The Status of Children Act 2015**

36. The Act provides for the equal status of children. There is no longer any stigma or difference between children who were born in or out of wedlock; all distinctions that existed as a result of the marital status of the parent of a child is abolished. This has serious implications for succession rights and intestacy as on the death a parent all children will have an equal right to inherit.

## J. Poverty alleviation

37. The Ministry of Social Transformation (MST) is the ministry with the primary responsibility for social and economic development of the country. The Government has implemented many social programmes to help reduce poverty. The Board of Guardians, a division of the MST has the responsibility for providing a fortnightly stipend to the poor and destitute. These persons also receive limited financial assistance to effect repairs to their homes through Home Improvement Grant and the indigent receive a small funeral grant.

38. The Government has implemented policies and plans for the social and economic development of the country and for the reduction and alleviation of poverty. There are several projects which are aimed directly at poverty alleviation and helping the poor and destitute. The Government raised the minimum wage from $7.50 per hour to $8.20 per hour with effect from the 1st January 2015, by statutory instrument.

39. The Government has a School Meals Programme for children in State owned schools; meals are provided at a cost of $1 EC per day. The project provides hot nutritious meals for all primary school children who take part in the initiative. The project is not means tested and is heavily subsidized by the Government.

40. The Government has implemented the School Uniform Grant Programme which is available to all citizens, and is not means-tested and all citizens who have children at school whether it is a private or State school can benefit from the programme.

**PDV Caribe Antigua and Barbuda Ltd**

41. PDV Caribe Antigua and Barbuda Ltd (PDV CAB) is a wholly owned Government company which was incorporated in 2005 in connection with the operation of the Petro-Caribe initiative. The initiative was created in June 2005 with the Government of Venezuela for the people of Latin America and the Caribbean. Petro-Caribe promotes the socio-economic development of the region affording participating countries the opportunity to purchase fuel from Venezuela at concessionary terms and to utilize the 'savings' to fund social programmes designed to improve the quality of life with particular emphasis on the vulnerable. The PDV Caribe has been involved in a number of social programmes.

**The Senior Citizens Utility Subsidy Programme**

42. The Senior Citizens Utility Subsidy Programme is one of the PDV Caribe social projects. The programme was started in 2008 and is open to all pensioners with the Antigua and Barbuda Social Security Scheme. It consists of a monthly subsidy of $100 which is applied to utility bills. There are currently over 4600 beneficiaries on this programme. Registration for the programme is done twice a year in May and November.

**The Peoples Benefit Programme**

43. The Peoples Benefit Programme is also a PDV Caribe social programme which was started in 2009. A debit card is utilized to provide a food subsidy to the economically disadvantaged and persons with disabilities. There is no age limit; the scheme is designed to help persons with limited or no income that are living below the poverty level. Persons who are desirous of receiving the means-tested benefit have to submit an application which is reviewed for approval. In order to qualify, persons are required to provide proof of citizenship, income or lack thereof and proof disability or medical incapacity etc. Beneficiaries receive a sum of $250 each month which is used to purchase food and selected personal items from the Central Marketing Corporation and supermarkets in town and rural areas. Since its inception over 2000 Antiguan and Barbuda's have benefitted.

44. Persons who are 80 and over and living on limited income are entitled to an allowance of $100 per month on their water bill and $250 per month on their electricity bill, if their utility bill go above the set figure, they will have to pay for the excess. The effect of these generous allowances is that most persons over 80 receive free electricity and water.

45. The Citizen's Welfare Division through GRACE the Government Residential Assistance and Care of the Elderly and Eligible (GRACE) Programme provides care to the housebound and disabled elderly in the form of domestic services, meals and social activities.

**The GARD Centre**

46. The Gilbert Agricultural and Rural Development Centre (GARD) is a leading training facility providing positive entrepreneurial and employment alternatives. The facility is targeted at helping youth and women.

47. The centre is a rural development and training centre, which has offered agricultural and enterprise training to youth between the ages of 16 and 30 since 1993. The training which the centre provides is focused on life skills and entrepreneurial skills with a specific emphasis in the use of natural resources in agriculture and other forms of rural enterprises. The programmes and courses offered at the centre targets youth and women in an effort to improve their welfare and standard of living and to address and ensure their continued development and sustainability.

48. The GARD Centre is an ecumenical programme of the Methodist Church, and receives assistance and support from the Government of Antigua and Barbuda who

contributes utilities, technical staff from the Ministry of Agriculture and provision of lands for the graduates of the programme. The centre provides a wide variety of training courses in agriculture, basic cookery, business management, customer service, food and beverage, weaving textiles, yacht maintenance and ICT evening course. The centre is very adept at responding to the needs of citizens.

## K. Health care services

### Mount St. John Medical Centre

49. The Mount St. John Medical Centre (MSJMC) is the main hospital in Antigua and Barbuda and comes under the auspices of the Ministry of Health. The MSJMC is managed by a State owned corporation. The hospital has 185 and offers a wide range of services to residents. Residents, who are members of the Medical Benefit Scheme receive their care free of charge and are pay a nominal fee for some diagnostics services and tests.

### Cancer Centre

50. In June or July the Cancer Centre which is in the environs of MSJMC was officially opened June, 2015 to deal with cancer patients in Antigua and Barbuda and beyond. The Centre recently received certification from the International Atomic Energy Agency which is responsible for verifying that the services as it relates to the radiation services are in keeping with internationally accepted standards.

51. The Government has been proactive on implementing programmes and measures to improve the health services and quality of services for the people of Antigua and Barbuda. In addition to investing in new equipment for the MSJMC and the opening of the Cancer Centre several programmes designed to improve the health of the people of Antigua and Barbuda have been introduced.

### The Eye Care Programme

52. In conjunction with the Venezuelan Government an Eye Care Programme was introduced where doctors from Venezuela came to Antigua and examined persons and recommended what treatment, if any, was required. Persons were treated free of cost at MSJMC and where persons required more invasive treatment, they were flown to Venezuela where they received the required medical attention free of cost. There have been two programmes to date. Person on low incomes and senior citizens and persons with cataracts, glaucoma and other eye ailments benefitted greatly from the programme.

53. There has been an increase in the decentralization of health care services, the services available, especially HIV services, in the community health clinics have been expanded with a view to easing the pressure on MSJMC. There has been an expansion in the dialysis programme at MSJMC. The programme has been extended in terms of machinery and persons who can have access to the dialysis machines.

54. The Government has formed a **National Wellness Committee,** which is made up of key stakeholders within the Government health sector. The committee has developed a policy which has been approved by Cabinet to deal with the risk factors associated with non communicable diseases. Ultimately the committee is aiming for a 25 per cent reduction rate in all mortality relating to NCD's. The Government has also undergone a vigorous public awareness programme and has used various medium to inform and educate the public on best practices for a variety of health issues, to include diabetes, hypertension and epilepsy.

**The Medical Benefit Scheme**

55. The Medical Benefit Scheme is a medical health insurance scheme operated by a statutory corporation. Citizens who contribute to the scheme by paying a monthly or weekly contribution receive free medical services for illness covered by the scheme. The Medical Benefit Scheme has many schemes designed to inform the public of healthy habits and practices, including competitions and fun walks etc.

## L. Gender issues

56. The Directorate of Gender Affairs (DOGA) is a division within the Ministry of Social Transformation. The DOGA is responsible primarily for promoting the advancement of women in Antigua and Barbuda. The DOGA is seeking to achieve gender equality and their services are also open to men. The Directorate of Gender Affairs works to promote gender equality and the full participation of women in the social, economic and political life of the country. The DOGA spearheads programmes and projects for the development of women in Antigua and Barbuda through education and training, advocacy, personal development and empowerment. The DOGA collaborates, with regional and international agencies and partners with local groups in developing projects, workshops, seminar and programmes. The DOGA promotes gender awareness through workshops, conferences, seminars etc and lobbies for reform in areas that may discriminate against women.

57. The DOGA works closely with other Government ministries including the Youth Development, Ministries of Health, Labour, Agriculture, the AIDS Secretariat, the Welfare Division, the Royal Police Force of Antigua and Barbuda: to promote gender awareness and lobbies for reform in areas that may discriminate against women.

58. The DOGA has developed programmes and provided training in the areas of domestic violence and sexual violence for law enforcement officers. The programmes have sought to make law enforcement officers sensitive to the needs of the victim and the trauma they experience. The DOGA has also been active in helping and advising victims of human trafficking; the department provides practical support and counseling to all victims. The DOGA in conjunction with another agency operates a Crisis Line for person who are being abused, the service is open to all males and female.

59. The DOGA has embarked on public campaigns to raise awareness about violence against women with a view to changing the attitude of society. The department has been very active in dealing with issues involving women and children.

60. The DOGA in conjunction with another agency operates a Crisis Line for person who are being abused, the service is open to all males and females. Generally the practices of the Government and other public institutions do not discriminate against women. The laws do not discriminate against women, as the constitution clearly and boldly states that persons should not be discriminated against based on their sex, religion, class. However, in practice this may not always be the case, for example young girls who become pregnant at school often have to leave school and that often leads to them not completing their education. Often this is due to cultural norms, practices and finances rather than the legal reasons. The reality is that the law provides education is compulsory from age 3-16 years, but the reality is that teen mothers are disenfranchised from continuing their education.

**Domestic violence**

61. A new Domestic Violence Bill has been passed in both the Lower and Upper Houses of Parliament. The Bill seeks to provide greater protection from victims of domestic violence and to make provision for the granting of protection orders and for matters incidental thereto. The Bill recognizes that domestic violence is a serious crime against society and that woman from the majority of victims of domestic violence. Domestic

Violence is an obstacle to achieving gender equality. The Act seeks to remedy and strengthen the Domestic Violence (Summary Proceedings) 1992. The new act gives the term domestic relationship a broader interpretation. The term domestic violence has a wider definition and now specifically includes economic abuse, intimidation, harassment, stalking, damage to or destruction of property and entry into the applicant's residence, work, and place of worship, which was not in the 1992 Act.

62. The new Act gives the police power to arrest without a warrant where they believe that a person is engaging or is likely to engage in conduct which amounts to physical violence and may result in serious physical injury or death.

## M. Labour/employment

63. The Antigua and Barbuda Labour Code sets out the minimum standards employers must meet with regard to labour practices in the country to include the terms of employment, health and safety issues, the right to join a trade union, collective bargaining etc. The Antigua and Barbuda Labour Code protects workers fundamental human right of freedom and assembly and association and to form trade unions. Trade unions are free to conduct their activities without interference. The Labour code allows trade unions to organize and bargain collectively without inference. The legislation also prohibits retaliation against individuals who take industrial action.

64. The Government has several programmes geared towards assisting young persons to train and acquire work skills. The New Work Experience Programme which is administered by the Labour Department finds work placements for persons for up to 6 months. During the six months they acquire real work experience and receive a stipend. The aim of the programme is to improve their prospects of obtaining work and making them more marketable.

### The One Stop Employment Centre

65. The One Stop Employment Centre which is administered by the Labour department facilitates the placement of suitably qualified nationals seeking employment in available positions. The unit seeks to help persons find employment and assists with all aspects of finding employment to include providing counseling services, skills development etc.

## N. Culture

66. The preservation and promotion of local culture is important human rights of the people of Antigua and Barbuda. There is a national Festivals Committee which is responsible for the organization and promotion of national festivals. The most notable cultural event is the summer Carnival, followed by Independence celebrations.

## O. Capacity building and technical assistance

67. To date there is no organization which oversees whether or not the Government is complying with its various human rights obligation. There is no data system capable of generating the information necessary for compiling human rights report at the moment.

68. Assistance is needed in creating a specific unit staffed by trained personnel whose sole responsibility will be public dissemination of the human rights obligations of the State, investigating human rights issue for the purpose of creating a data bank and generating reports as and when required.